

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EUGENE DANESHVAR,

Plaintiff,

Case No. 13-cv-13096

v.

HONORABLE STEPHEN J. MURPHY, III

DARYL KIPKE, et al.,

Defendant.

**ORDER REGARDING ALL PENDING
MOTIONS AND THE MAGISTRATE'S REPORT**
(document nos. 49, 52, 64, 65, 74, 88, 91, 99, 100) AND ORDER TO MEDIATE

Plaintiff Eugene Daneshvar filed suit against his faculty adviser, Daryl Kipke, and NeuroNexus Technologies, Inc., and claimed that they had illegally patented his inventions. The parties engaged in extensive discovery and filed motions for Summary Judgment in July 2015. They have also filed motions to compel, motions for sanctions, and motions to strike. The Court referred most of the discovery motions to Magistrate Judge Patti; he has ruled on each of the referred motions. Daneshvar objected to the Magistrate Judge's evidentiary rulings.

At this point in the litigation, the Court finds that the parties would greatly benefit from mediation. Both parties are running a considerable risk with continued litigation. The case involves multiple challenging patent law issues. And the case turns on complex technology. Neither party should be confident in a successful outcome through continued litigation.

The Court will therefore order the parties to attend mediation with Dennis Barnes from the law firm of Barris, Sott, Denn & Driker, pursuant to Local Rule 16.4. The mediation and settlement discussions shall occur no later than Friday, February 5, 2016. Upon receipt

of this Order, the parties should contact Mr. Barnes at 313-965-9725 or dbarnes@bsdd.com. Each party is responsible for paying one half of Mr. Barnes' fee.

In addition, the Court has reviewed Magistrate Judge Patti's rulings on Daneshvar's Motion to Compel and Kipke's Motion for Sanctions. The Court has reviewed the filings and will adopt the Magistrate Judge's Report and Recommendations, with a few minor alterations.

First, in his ruling on Defendants' Motion for Sanction, the Magistrate recommended that Daneshvar pay for the attorney's fees that the Defendants incurred in bringing the motion for sanctions. If the parties settle the case through mediation, the Court will not accept the recommendation to award the attorney's fees.

Second, the parties should not engage in any additional discovery until after mediation is complete. Early settlement of cases not only eliminates litigation risk, it saves the parties a great deal of money. The Court will promote beneficial savings by prohibiting the parties from continuing to engage in discovery.

In addition, the Court will deny without prejudice the Defendants' motion for summary judgment. The Court will also deny as moot Plaintiff's Motion to Strike (document no. 74). If settlement negotiations fail, the parties may consider re-filing summary judgment motions at the close of any additional discovery.

Thus:

- The parties will engage in mediation with Dennis Barnes no later than February 5, 2016.
- If mediation is unsuccessful, Daneshvar shall file supplemental answers to Interrogatory 1, 2, 3, and 9 within fourteen days of completing the mediation, in

accordance with Civil Rule 33(b)(3) and the Magistrate Judge's Report and Recommendation.

- The Defendants may depose Daneshvar within fourteen days of receiving the supplemental interrogatory answers. The deposition shall not last longer than ninety minutes and will be limited in scope to questions about the interrogatories.
- The Defendants shall supplement their interrogatories as detailed in the Magistrate Judge's Report and Recommendation (document no. 91). If the Defendants have not already supplemented their answers, the supplementation should occur within fourteen days of the mediation.
- The Defendants may file an affidavit and motion for attorney's fees, as provided for in the Magistrate's Report, within fourteen days of the mediation.
- The parties may file summary judgment motions no later than March 18, 2016 in the event mediation is unsuccessful.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendations (document nos. 88 & 91) are **ADOPTED**, as modified above.

IT IS FURTHER ORDERED that Daneshvar's Objections (document nos. 99 & 100) are **OVERRULED**.

IT IS FURTHER ORDERED that Defendant's Motion For Sanctions (document no. 49) is **GRANTED IN PART AND DENIED IN PART**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Compel (document no. 52) is **GRANTED IN PART AND DENIED IN PART**.

IT IS FURTHER ORDERED that Defendants' Motion For Summary Judgment (document nos. 64 & 65) are **DENIED WITHOUT PREJUDICE**. Defendants may refile a dispositive motion no later than March 18, 2016.

IT IS FURTHER ORDERED that Daneshvar's Motion To Strike (document no. 74) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the parties shall mediate with Dennis Barnes no later than February 5, 2016.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: November 30, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 30, 2015, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager